

REMARKS

This is in response to the Office Action mailed on July 27, 2004, and the references cited therewith.

Claims 60 and 61 are amended, claim 59 is canceled, and claim 63 is added. As a result, claims 1-58, 60-63 are now pending in this application. At page 3 of the Office Action, the Examiner indicated that claims 1-58 and 62 are allowable.

Information Disclosure Statement

At page 3 of the Office Action, the Examiner states that certain documents were not initialed on Forms 1449 submitted in a Supplemental Information Disclosure Statement filed December 29, 2003 because dates (*i.e.*, year) of publication were not provided. The non-initialed documents are Podoloff *et al.*, European Journal of Nuclear Medicine, Abstract No. PS-641; Srivastava *et al.*, "Ruthenium-97 Labeled Compounds—A New Class of Radiopharmaceuticals;" and Weininger *et al.*, Proceedings of the 30th Annual Meeting, 24: P125. Submitted herewith is a Supplemental Information Disclosure Statement and a Form 1449 listing the three documents, with the respective publication year of each, for the Examiner's consideration. Applicant respectfully requests that an initialed copy of the Form 1449, indicating that the cited references have been considered by the Examiner, be returned to Applicant's Representatives with the next official communication.

Objections to the Claims

The Examiner objected to claim 61 as being dependent upon a rejected base claim, but indicated the claim to be allowable if rewritten in an independent form (page 3 of the Office Action). Claim 61 has been rewritten as suggested by the Examiner. Therefore, withdrawal of this objection is respectfully requested.

The 35-U.S.C. §112 Rejection of the Claims

The Examiner rejected claims 59 and 60 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Applicant regards as the invention. In particular, the Examiner alleges that the phrases “bone related disease” in claim 59 and “an immunological disorder, a metabolic disease, an infection, an infectious disease, an inflammatory disease, a hematopoietic disorder, or a condition treatable with stem cell transplantation, with or without gene therapy, that utilize bone marrow ablation” in claim 60 renders claims 59-60, respectively, indefinite. The cancellation of claim 59 renders this rejection of claim 59 moot. As this rejection may be maintained with respect to the pending claims, it is respectfully traversed.

Applicant submits that the language of claim 60, as amended, is definite and that one of skill in the art would clearly understand the scope of the invention as defined by the claim, particularly when the claim is read in light of the specification. See, for example, the specification at page 24, line 20 to page 25, line 7. Thus, Applicant submits that the amendment to claim 60 overcomes the 35 U.S.C. § 112, second paragraph, rejection.

In addition, Applicant respectfully submits that new claim 63, which is directed to a therapeutic method for treating an infection in a mammal in need of such therapy, meets the requirements of 35 U.S.C. § 112, second paragraph.

Withdrawal of the 35 U.S.C. § 112, second paragraph, rejection is therefore respectfully requested.

Conclusion

Applicant thanks the Examiner for his careful consideration of the pending claims and for acknowledging the allowability of claims 1-58 and 62. The Applicant respectfully submits that the pending claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 359-3265 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ALAN R. FRITZBERG

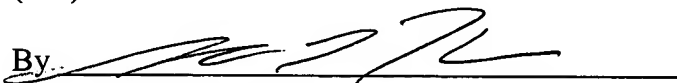
By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 359-3265

Date

1-27-05

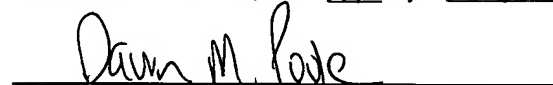
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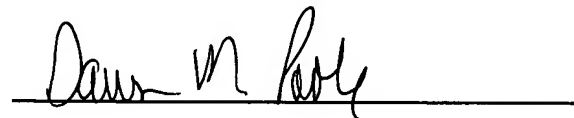
Robert J. Harris

Reg. No. 37,346

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27th day of January, 2005.



Name



Signature

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Serial No :10/615,484

Filing Date: July 08, 2003

Title: THERAPEUTIC AND DIAGNOSTIC COMPOUNDS, COMPOSITIONS, AND METHODS

Page 2

Dkt: 295.034US1

The Examiner is invited to contact the Applicant's Representative at the below-listed telephone number if there are any questions regarding this communication.

Pursuant to 37 C.F.R. 1.98(a)(2), Applicant believes that copies of cited U.S. Patents and Published Applications are no longer required to be provided to the Office. Notification of this change was provided in the United States Patent and Trademark Office OG Notices dated October 12, 2004. Thus, Applicant has not included copies of any US Patents or Published Applications cited with this submission. Should the Office require copies to be provided, Applicant respectfully requests that notice of such requirement be directed to Applicant's below-signed representative. Applicant acknowledges the requirement to submit copies of foreign patent documents and non-patent literature in accordance with 37 C.F.R. 1.98(a)(2).

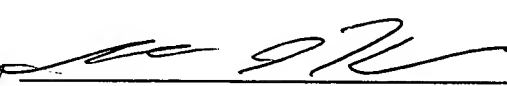
Respectfully submitted,

ALAN R. FRITZBERG

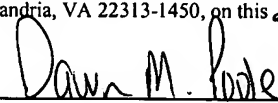
By his Representatives,

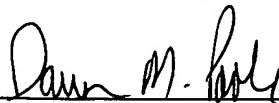
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